

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**WILLIAM F. READE, JR.,
Plaintiff,**

v.

Civil Action No. 16-10366-NMG

**WILLIAM FRANCIS GALVIN,
Defendant.**

ORDER

GORTON, D.J.

June 30, 2016

Plaintiff's motion for leave to appeal in forma pauperis (Docket Entry No. 14) is hereby DENIED for failure to comply with the June 9, 2016 Order of the United States Court of Appeals for the First Circuit. See June 9, 2016 Order, attached. In that Order, the First Circuit ordered the plaintiff to pay the filing fee or file a motion for leave to proceed in forma pauperis including, among other things, a complete Form 4 and financial affidavit. Plaintiff was required to notify the First Circuit by June 24, 2016 of having paid the fee or filed the motion with this Court. Plaintiff failed to accompany his motion with a completed Form 4 and financial affidavit. Id. The motion is also untimely. Id.

Even if the Court were to overlook these deficiencies, plaintiff's assertion that his in forma pauperis status from a different, earlier and closed case in this district automatically allows him to proceed in forma pauperis is without merit. Rule 24(a)(3) of the Federal Rules of Appellate Procedure provides: "A party who was permitted to proceed in forma pauperis in the district-court action...may proceed on appeal in forma pauperis without further authorization..." Fed. R. App. P. 24(a)(3)(emphasis supplied). The use of the definite article "the" instead of the

indefinite article “a” is a distinction with a difference. That is, the purpose of the rule is to avoid duplication of effort in the same case where a plaintiff has already been found indigent. This conclusion is buttressed by 28 U.S.C. § 1915(a)(1), requiring a plaintiff to seek in forma pauperis in each action. Here, plaintiff’s earlier motions to proceed in forma pauperis in this action were denied. See Docket Entry No. 8. Accordingly, plaintiff did not have prior approval to appeal this action in forma pauperis.

Accordingly, plaintiff’s request to proceed on his appeal in forma pauperis is hereby DENIED. The Clerk is directed to transmit a copy of this Order to the First Circuit.

So Ordered.

/s/ Nathaniel M. Gorton
NATHANIEL M. GORTON
United States District Judge